



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,847	09/10/2003	Ivan H. McLean	030313	5532
23696	7590	03/25/2005	EXAMINER	
Qualcomm Incorporated Patents Department 5775 Morehouse Drive San Diego, CA 92121-1714			JACKSON, BLANE J	
			ART UNIT	PAPER NUMBER
			2685	

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/659,847	MCLEAN, IVAN H.
	<b>Examiner</b>	Art Unit
	Blane J Jackson	2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 10 September 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-20 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 10 September 2003 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Ross et al. (US 2004/0058651).

The applied reference has a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

As to claims 1, 4, 9, 13 and 17, Ross teaches a method and apparatus for use in a server to provide a dynamic integrity check of a client device comprising:

selecting a selected integrity application from one or more integrity applications wherein the selected integrity application operates to generate a unique pre-selected integrity response (figures 1 and 2),

downloading the selected integrity application for execution on the client device (network server (16) can *selectively download* software applications or agents to the wireless devices, paragraphs 20-22),

receiving a response from the selected integrity application (paragraphs 23-25, wireless device returns data; operational parameters, user ID, position, network ID, system ID, resident software or the like); and

determining whether or not the response is the pre-selected integrity response (operation summary: paragraph 30 where the wireless client is prompted to transmit status data to the server and paragraph 31, a determination is made as to whether the data has been received at the server and paragraph 28, the device is caused to selectively transmit data to the network server).

**As to claim 17 with respect to the claim elements as in claim 1,** Ross teaches a computer readable media comprising instructions that when executed by a processor in an integrity system operate to dynamically check the integrity of a device (wireless network (10) with a plurality of computer devices (12, 18, 20 and 22), the client wireless devices and the network server than can selectively download software application or agents to the wireless devices, paragraphs 20 and 21).

As to claims 2, 3, 10, 11, 14, 15, 18 and 19, Ross teaches dynamically adjusting the pre-selected integrity response to include a time based reference value (paragraph 28, the returned status data can include signal strength, geographical position data, BER, RSSI, device state data or time).

As to claim 5, Ross teaches the response comprises the absence of any response within a selectable time period (paragraph 29, the wireless device transmits data to the server when requested and paragraph 31, the server tracks whether the data has been received).

As to claim 6, Ross teaches the step of randomly selecting an integrity application from the one or more integrity applications, paragraph 28.

As to claim 7, Ross teaches the step of selecting comprises selecting the integrity application based on device location (paragraph 28, geographical data or position is one of many types of returned status data that would inherently be used to select and push any further related applications).

As to claims 8, 12, 16 and 20, Ross teaches the client device is a wireless device (figure 1, devices (22, 12, 18 and 20), paragraph 21).

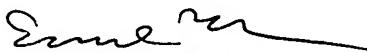
***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hendrickson et al. (US 6,745,011) discloses a system with at least one wireless device to gather data by data gathering software installed on the device with transmission to a control center to receive, store and process the data.
  
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blane J Jackson whose telephone number is (703) 305-5291. The examiner can normally be reached on Monday through Friday, 8:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (703) 305-4385. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BJJ

  
EDWARD F. URBAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600